

***APPROVED MINUTES*** of the Regular Meeting of the City Council of the City of Rye held in City Hall on March 14, 2007 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor  
ANDREW C. BALL  
MACK CUNNINGHAM  
MATTHEW FAHEY  
DUNCAN HENNES  
GEORGE S. PRATT  
HOWARD G. SEITZ  
Councilmen

ABSENT: None

1. Pledge of Allegiance

Mayor Otis called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2. Roll Call

Mayor Otis asked the City Clerk to call the roll; a quorum was present to conduct official city business.

Announcements

Mayor Otis congratulated the Rye High School Boy's Ice Hockey Team on a great season saying that they had won against a very strong team 3-0 to get to the State Quarter Finals where they lost a hard-fought game to Monroe-Woodbury.

The Mayor announced that Assistant City Manager Scott Pickup was sitting in for City Manager Paul Shew who was out of town because of a family emergency. He asked Mr. Pickup to report on the staff response to last week's serious flooding, which was a concern to everyone. Mr. Pickup reported that the NIMS/Incident Command Training the staff had been practicing and the experiences learned from the flood in 2004 had paid off and City response to the serious flooding had been infinitely better. They had established a command post near Indian Village and experienced excellent communication not only between City departments, but with Con Edison and the Department of Transportation. He said the City had cleaned all the sluice ducts and made all the preparations possible, but the combination of the extreme rain in a short period of time on frozen ground which coincided with a full-moon high tide proved to be too much for the brook. He said the police did a great job; that residents were comforted to have the command center where they could get information and direction; and that the Reverse 911 system had been used to good effect (informing residents of what was happening, when they might expect inspectors at their door, why their power was off, etc.). He said Highland Hall was very hard hit

and had no power for a long time, but that most residents had their power restored by Sunday evening. He thanked Con Edison for their good response. He said cooperation with the schools had been excellent as all the children were kept in school until the floodwaters receded. He congratulated everyone (including the building inspector and all public safety personnel) and said he felt the flood victims were appreciative despite the severity of the situation. Councilman Hennes said he had received a lot of positive feedback and Councilman Seitz said there was a dramatic improvement in the City's response. In response to a query from Councilman Ball, Mr. Pickup said they had quickly and thoroughly investigated the sources of the oil smells and discovered that the oil had been washed out to sea leaving no lasting impact. Mayor Otis commented how impressive it was that Con Edison was so visible so promptly, and congratulated everyone, including Rye's resilient citizens. Mr. Pickup said City staff would review everything and see what more could be learned for the future.

3. Residents may be heard who have matters to discuss that do not appear on the agenda

*Henry King, 76 Coolidge Avenue*, asked if the City has developed an official response to the Department of Environmental Conservation (DEC)'s plan for additional work on the Harrison ball field. The Mayor said not yet, but they had asked for an extension period. Councilman Pratt informed Mr. King that the City had filed a Freedom of Information (FOIL) request from both the DEC and the Town of Harrison to make sure we have all we need to find out exactly what is going on. The FOIL was filed on March 8 so, by law, an answer should be received within 20 business days. He said he personally was through "playing nice" and suggested the City refer whatever data we receive to a judge. The Mayor reiterated that the City is taking a strong position already and Councilman Seitz suggested the City wait and see what information we get from the FOIL request. Mr. King said last week's flooding certainly provided "scientific evidence" that the remediation project had not been successful and this wasn't even as bad as a 100 year flood! He said the water still went over the field and into the Food Emporium Shopping Center which pumped an estimated million gallons of water and areas of Harrison, previously dry, flooded. *Mary Jurs, 20 Hunt Place*, thanked Mr. Pratt and reiterated that this was the worst flooding yet, affecting more homes than ever.

*Bernard Althoff, 34 Mendota St*, said the response had been great, but what was the City going to be doing now to alleviate the flooding problem? The Mayor said the City had always been against development upstream, but it looked as if Rye Brook was going to give permission to develop a piece of land Rye had wanted to make parkland and this was unfortunate. He said we are trying to find ways to work with other communities but it is hard to do. He said the City had been looking to the Army Corps of Engineers to fund some flood remediation below the Bowman Dam, but the funds had been diverted to New Orleans after Hurricane Katrina, much to the distress of Councilman Pratt. Mr. Althoff suggested digging a deep hole behind the Bowman Dam and said he didn't care what it cost – "just send a bill." Mr. Pickup said he had recently met again with the Army Corps and pointed out we are looking at almost 11 miles of watershed area. He said while building/dredging/ etc. may be doable from an engineering point of view it may not be practical when you consider the impact of such changes both upstream and downstream. The Mayor reminded everyone the dam is not really a dam, but a sluiceway and we are still working with the Army Corp to convert it, but it is not a simple matter and building the dam higher would just make the water go around it. He thanked Mr. Althoff for his comments,

saying there is no question flooding in our community is a serious matter and the City is always looking for ways to help the situation.

4. Bid Approval for Contract 2007-01 Skate Park at Rye Recreation Park.

Acting City Manager Scott Pickup presented the recommendations from the Recreation Department to award the contract (#2007-01) for the construction of the Skate Board Park at Rye Recreation Park. He reviewed the funding for the park (a challenge grant from the City, matched by private funds and a legacy grant from Westchester County [Note: \$100,000 is the correct amount]). The Council asked for an analysis of all costs involved and confirmed that if the costs were less than the total funds collected the City would be able to keep a portion of the challenge grant funds.

Councilman Hennes made a motion, seconded by Councilman Fahey, to adopt the following resolution:

**RESOLVED**, that Contract #2007-01 – Skate Park at Rye Recreation Park be awarded in the amount of \$123,688 to Rampage, LLC being the lowest bidder meeting specifications.

ROLL CALL

AYES: Mayor Otis, Councilmen Ball, Cunningham, Fahey, Hennes,  
Pratt and Seitz  
NAYS: None  
ABSENT: None

5. Consideration of implementing a Stop Sign Policy for the City of Rye and of amending Section 191-12, Vehicles and Traffic of the Code of the City of Rye to designate a full stop for traffic at the intersection of Bradford Avenue and Florence Avenue

Mayor Otis asked the Council to consider a draft of a Stop Sign Policy for the City of Rye submitted by Police Commissioner William Connors to address the issue of establishing procedures and guidelines for granting requests for stop signs. He noted that there are Federal Guidelines relating to the approval of installing stop signs, but perhaps the guidelines need to be more specific to the needs of a small community such as Rye. He said everyone on the Council has been to visit the Bradford/Florence Avenue intersection where a stop sign has been requested and are sympathetic, but the process should be put in place before voting to install the sign. He suggested the Council review the policy, make any comments they may have and be prepared to adopt it at the next meeting of the City Council. Once adopted, assuming the Bradford Avenue request meets the guidelines, the request can be approved and the local law can be amended. He suggested this was a more logical and cleaner approach than granting the request now and hoping it fit into the guidelines.

In the end, the Council preferred to vote for the stop sign immediately, but they did offer comments on the guidelines. Councilman Cunningham suggested taking a look at who finally would approve the request. [Note: the standard procedure would be for the Council to review an approved request at the next Council Meeting and vote to amend the local law by amending Section 191-12, Vehicles and Traffic of the Code of the City of Rye.] He also suggested the timeline be reviewed to indicate “no more than 60 days.” Councilman Hennes said he was baffled as to how stop signs could avoid controlling speed. Councilman Pratt suggested the City Council should make the ultimate decision (yea or nay) rather than having that decision lie with City Staff. Councilman Ball disagreed. Councilman Seitz said the Council should be the voice of appeal and pointed out that the only reason the Council was talking about this issue was because the Traffic and Transportation Committee denied the request. *Jay Sears, 110 Florence Avenue*, who had led the petition process for the installation of the stop sign at Bradford and Florence Avenues, said the policy should speed up the timeline and make the process more transparent. He believes all requests should go before the Council so everyone knows who thinks what and that there should be one single point of contact in each department.

*Joe Abate, 114 Florence Avenue* and *Mark Dalton, 130 Florence Avenue*, both spoke eloquently on the need for installing the stop sign immediately, suggesting that the intersection was an accident waiting to happen. Councilman Pratt presented a “newsflash” that with the warmer weather, the children were already outside playing. Councilman Seitz urged the Department of Public Works to make sure the hedge on the corner (which is blocking the site line) be cut as soon as possible.

As a compromise, Mayor Otis made a two part motion, seconded by Councilman Hennes, to adopt the following resolutions:

**RESOLVED**, that the Council agrees in general on the principals outlined in the proposed Stop Sign Policy and has indicated an intention to adopt the procedures, as modified over the next two weeks, at the next meeting of the City Council; and be it further

ROLL CALL:

AYES: Mayor Otis, Councilmen Ball, Cunningham, Fahey, Hennes,  
Pratt and Seitz  
NAYS: None  
ABSENT: None

**RESOLVED**, that the Council, having adopted the above resolution, hereby approves the amendment of Section 191-12, Vehicles and Traffic, of the code of the City of Rye to designate a full-stop for traffic on Florence Avenue at Bradford Avenue and on Bradford Avenue and Florence Avenue.

ROLL CALL:

AYES: Mayor Otis, Councilmen Ball, Cunningham, Fahey, Hennes  
and Pratt  
NAYS: Councilman Seitz  
ABSENT: None

Councilman Ball thanked the residents for the community activism which led to the discussion of the procedure and urged that the hedge be cut down. Mayor Otis thanked the Traffic and Transportation Committee and Chair Brian Dempsey for working on the request and requesting the input of the City Council.

6. Authorization to fill two positions in the Public Works Department

Acting City Manager Pickup said there are two vacancies in the Department of Public Works which need to be filled, especially as a busy time of the year is approaching. He said there would be a minor savings as the new employees would be hired at a lower rate.

Councilman Fahey made a motion, seconded by Councilman Pratt to adopt the following resolution:

**RESOLVED**, that the City Manager be and hereby is authorized to fill the vacant positions in the Department of Public Works.

ROLL CALL:

AYES: Mayor Otis, Councilmen Ball, Cunningham, Fahey, Hennes,  
Pratt and Seitz  
NAYS: None  
ABSENT: None

7. Authorization to fill Parking Enforcement Officer position

Acting City Manager Pickup reported that it is important to fill the vacant Parking Enforcement Officer position; that they have interviewed people and have a candidate. He said the City is getting closer to filling the Police Detective position.

Councilman Seitz made a motion, seconded by Councilman Pratt to adopt the following resolution:

**RESOLVED**, that the City Manager be and hereby is authorized to fill the vacant Parking Enforcement Officer position.

ROLL CALL:

AYES: Mayor Otis, Councilmen Ball, Cunningham, Fahey, Hennes,  
Pratt and Seitz  
NAYS: None  
ABSENT: None

8. Resolution declaring Recreation Department 1980 tractor/backhoe as surplus

Acting City Manager Pickup reported that the Recreation Department's 1980 tractor/backhoe is, as per the budget, in the process of being replaced and the City would like permission to declare this obsolete piece of machinery as surplus. He said they may even try and sell it on the internet. Councilman Cunningham announced that he was not going to vote to declare it obsolete because that would assure the purchase of the new piece of equipment which will cost \$75,000. He feels it would be better to have DPW share its backhoe with the Recreation Department. Despite assurances that declaring the old, undependable 1980 tractor/backhoe as surplus would not mean a new one would automatically be purchased, it was decided to table the decision. The Council requested another memorandum about the feasibility of using the existing backhoe; about why the Recreation Department needs one of its own; and how often it will need to be used.

9 Resolution to endorse real estate transfer tax proposal and direct the Corporation Counsel to draft appropriate legislation to be submitted to the State Legislature, after review with NYCOM

Councilman Seitz made a proposal that the Council endorse the idea of basically establishing a 5% transfer tax on sales of real property. He said in the near term the City of Rye is going to need significant funds to take care of many backlogged capital needs as well as the purchase of 1037 Boston Post Road, and he is dedicated to finding ways (such as the Hotel Occupancy Tax and the Parking Meters) to raise funds without directly taxing the homeowner.

His plan would be:

- 1) a 5% tax on all transfers of real property decreasing at .5% per year for each year the seller has owned the real property;
- 2) that the holding periods be tacked to account for inherited property;
- 3) that proceeds be applied to infrastructure costs, debt and reserves for acquisition of real property for municipal purposes; and
- 4) that mortgagees and creditors be exempt.

He said the Finance Committee has been opposed to the proposal for a variety of reasons and are now concerned that the State won't approve it, but he has been to see the Legislative Department at NYCOM and they have indicated a willingness to support the idea in the context of a local law. He concluded by asking if anyone had a better alternative to raising funds, but in the meantime he feels it is worth a try to see if it will be acceptable to Albany.

Councilman Pratt agreed Rye needs funds but labeled this a "great political speech" which he will not support because it is an elastic tax supporting debt; is discriminatory and won't fly in Albany. Additionally he pointed out that the real estate moment may have passed and adding another cost to the sale of a house will not help long-term residents. He suggested finding a way to close the loophole on developers who tear down a house and then only pay taxes on unimproved land. Councilman Hennes said he was opposed to the plan because in the long run it will hurt all homeowners and he would rather cut expenses than add another tax. The

Mayor reiterated his belief that Albany will not accept a proposal that was not “boilerplate” and this, with all its sliding scales and variances, would be “dead on arrival.” As for where else to get the money, ideas ranged from “the voters will decide” to seeking more grant money.

Councilman Seitz made a motion, seconded by Councilman Pratt to adopt the following resolution:

**RESOLVED**, that the City Council endorse Councilman Seitz’s proposal for a real estate transfer tax and direct the Corporation Counsel to draft appropriate legislation to be submitted to the State Legislature, after review with NYCOM.

ROLL CALL:

AYES: Councilman Seitz

NAYS: Mayor Otis, Councilmen Ball, Cunningham, Fahey, Hennes  
and Pratt

ABSENT: None

The proposal failed to pass.

10. Additional appointments to the Temporary Trailway and Traffic Safety Study Group

Mayor Otis made a motion, unanimously approved to appoint Tom Fendler and Rhonda Papert as additional members of the Temporary Trailway and Traffic Safety Study Group.

11. Miscellaneous communications and reports

Mayor Otis reported that the Governor’s budget is trying to close a loophole in the Hotel Occupancy Tax legislation – namely that if a reservation is made on the internet there is no tax. Once the loophole is corrected, Rye will have to pass local legislation to comply.

Councilman Cunningham reminded everyone that March 31 was a busy day at the Recreation Department: the annual facilities tour in the morning; the Easter Egg Hunt for ages 2-10; and the Colonial Day festivities (co-sponsored with the Rye Historical Society and the Leaders of Tomorrow) from 12:30-5:00 P.M. for all ages featuring cavalry, weapons and artillery demonstrations, colonial games and historical workshops.

Councilman Ball noted that a \$250,000 Environmental Grant had been awarded for the pavilion restoration at Rye Town Park, provided the monies can be matched locally. So far this hasn’t happened and the communities will have to find a way to match these funds.

12. Old Business

There was no old business to be discussed.

13. New Business

In answer to an inquiry from a new resident, recycling boxes can be obtained at the Department of Public Works.

14. Draft unapproved minutes of regular meeting of the City Council held on February 28, 2007

Mayor Otis made a motion, seconded by Councilman Hennes and unanimously carried, to approve the minutes of the regular meeting of the City Council held on February 28, 2007 as amended.

15. Adjournment

There being no further business to discuss, Councilman Hennes made a motion, seconded by Councilman Fahey and unanimously carried, to adjourn the meeting at 10:55 P.M.

Respectfully submitted,

Susan A. Morison  
City Clerk